

# NAFTA: Text and Selected Documents

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**ANNEX II: RESERVATIONS FOR FUTURE MEASURES**

1. The Schedule of a Party sets out, pursuant to Articles 1108(3) (Investment) and 1206(3) (Cross-Border Trade in Services), the reservations taken by that Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 1102 or 1202 (National Treatment);
- (b) Article 1103 or 1203 (Most-Favored-Nation Treatment);
- (c) Article 1205 (Local Presence);
- (d) Article 1106 (Performance Requirements); or
- (e) Article 1107 (Senior Management and Boards of Directors).

2. Each reservation sets out the following elements:

- (a) Sector refers to the general sector in which the reservation is taken;
- (b) Sub-Sector refers to the specific sector in which the reservation is taken;
- (c) Industry Classification refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
- (d) Type of Reservation specifies the obligation referred to in paragraph 1 for which a reservation is taken;
- (e) Description sets out the scope of the sector, sub-sector or activities covered by the reservation; and
- (f) Existing Measures identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. The Description element shall prevail over all other elements.

4. For purposes of this Annex:

CMAP means Clasificacion Mexicana de Actividades y Productos (CMAP) numbers as set out in Instituto Nacional de Estadistica, Geografia e Informatica, Clasificacion Mexicana de Actividades y Productos, 1988;

CPC means Central Product Classification (CPC) numbers as set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, Provisional Central Product Classification, 1991; and

SIC means:

- (a) with respect to Canada, Standard Industrial Classification (SIC) numbers as set out in Statistics Canada, Standard Industrial Classification, fourth edition, 1980; and
- (b) with respect to the United States, Standard Industrial Classification (SIC) numbers as set out in the United States Office of Management and Budget, Standard Industrial Classification Manual, 1987.

**Schedule of Canada**

**Sector:** Aboriginal Affairs

**Sub-Sector:**

**Industry Classification:**

**Type of Reservation:** National Treatment (Articles 1102, 1202)

**Most-Favored-Nation Treatment (Articles 1103, 1203)**

**Local Presence (Article 1205)**

**Performance Requirements (Article 1106)**

**Senior Management and Boards of Directors (Article 1107)**

**Description:** Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure denying investors of another Party and their investments, or service providers of another Party, any rights or preferences provided to aboriginal peoples.

**Existing Measures:** Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11

**Sector:** All Sectors

**Sub-Sector:**

**Industry Classification:**

**Type of Reservation:** National Treatment (Article 1102)

**Description:** Investment

Canada reserves the right to adopt or maintain any measure relating to residency requirements for the ownership by investors of another Party, or their investments, of oceanfront land.

**Existing Measures:**

**Sector:** Communications

**Sub-Sector:** Telecommunications Transport Networks and Services, Radiocommunications and Submarine Cables

**Industry Classification:** CPC 752 Telecommunications Services

CPC 7543 Connection Services

CPC 7549 Other Telecommunications Services Not Elsewhere Classified (limited to telecommunications transport networks and services)

**Type of Reservation:** National Treatment (Article 1102)

**Most-Favored-Nation Treatment (Article 1103)**

**Senior Management and Boards of Directors (Article 1107)**

**Description:** Investment

Canada reserves the right to adopt or maintain any measure relating to investment in telecommunications transport networks and telecommunications transport services, radiocommunications and submarine cables, including ownership restrictions and measures concerning corporate officers and directors and place of incorporation.

This reservation does not apply to providers of enhanced or value-added services whose underlying telecommunications transmission facilities are leased from providers of public telecommunications transport networks.

**Existing Measures:** Bell Canada Act, S.C.1987, c. 19

British Columbia Telephone Company Special Act, S.C.1916, c. 66

Teleglobe Canada Reorganization and Divestiture Act, S.C.1987, c. 12

Telesat Canada Reorganization and Divestiture Act, S.C.1991, c. 52

Radiocommunication Act, R.S.C.1985, c. R-2

Telegraphs Act, R.S.C.1985, c. T-5

Telecommunications Policy Framework, 1987

Sector: Communications

Sub-Sector: Telecommunications Transport Networks and Services, Radiocommunications and Submarine Cables

Industry Classification: CPC 752 Telecommunications Services (not including enhanced or value-added services)

CPC 7543 Connection Services

CPC 7549 Other Telecommunications Services Not Elsewhere Classified (limited to telecommunications transport networks and services)

Type of Reservation: National Treatment (Article 1202)

Most-Favored-Nation Treatment (Article 1203)

Local Presence (Article 1205)

Description: Cross-Border Services

Canada reserves the right to adopt or maintain any measure relating to radiocommunications, submarine cables and the provision of telecommunications transport networks and telecommunications transport services. These measures may apply to such matters as market entry, spectrum assignment, tariffs, intercarrier agreements, terms and conditions of service, interconnection between networks and services, and routing requirements that impede the provision on a cross-border basis of telecommunications transport networks and telecommunications transport services, radiocommunications and submarine cables.

Telecommunications transport services typically involve the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, whether or not such services are offered to the public generally. These services include voice and data services by wire, radiocommunications or any other electromagnetic means of transmission.

This reservation does not apply to measures relating to the cross-border provision of enhanced or value-added services.

Existing Measures: Bell Canada Act, S.C.1987, c. 19

British Columbia Telephone Company Special Act, S.C.1916, c. 66

Railway Act, R.S.C.1985, c. R-3

Radiocommunication Act, R.S.C.1985, c. R-2

Telegraphs Act, R.S.C.1985, c. T-5

Telecommunications Policy Framework, 1987

Telecommunications Decisions, C.R.T.C., including (85-19), (90-3), (91-10), (91-21), (92-11) and (92-12)

Sector: Government Finance

Sub-Sector: Securities

Industry Classification: SIC 8152 Finance and Economic Administration

Type of Reservation: National Treatment (Article 1102)

Description: Investment

Canada reserves the right to adopt or maintain any measure relating to the acquisition, sale or other disposition by nationals of another Party of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada, a province or local government.

Existing Measures: Financial Administration Act, R.S.C.1985, c. F-11

Sector: Minority Affairs

**Sub-Sector:** Other Services Industries

**Industry Classification:** SIC 8800-8900

**Type of Reservation:** National Treatment (Articles 1102, 1202)

**Local Presence (Article 1205)**

**Performance Requirements (Article 1106)**

**Senior Management and Boards of Directors (Article 1107)**

**Description:** Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure according to rights or preferences to socially or economically disadvantaged minorities.

**Existing Measures:**

**Sector:** Social Services

**Sub-Sector:**

**Industry Classification:**

**Type of Reservation:** National Treatment (Articles 1102, 1202)

**Most-Favored-Nation Treatment (Article 1203)**

**Local Presence (Article 1205)**

**Senior Management and Boards of Directors (Article 1107)**

**Description:** Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

**Existing Measures:**

**Sector:** Transportation

**Sub-Sector:** Air Transportation

**Industry Classification:** SIC 4513 Non-Scheduled Air Transport, Specialty, Industry

**Type of Reservation:** National Treatment (Article 1102)

**Most-Favored-Nation Treatment (Article 1103)**

**Senior Management and Boards of Directors (Article 1107)**

**Description:** Investment

Canada reserves the right to adopt or maintain any measure that restricts the acquisition or establishment of an investment in Canada for the provision of specialty air services to a Canadian national or a corporation incorporated and having its principal place of business in Canada, its chief executive officer and not fewer than two-thirds of its directors as Canadian nationals, and not less than 75 percent of its voting interest owned and controlled by persons otherwise meeting these requirements.

**Existing Measures:** Aeronautics Act, R.S.C.1985, c. A-2

Air Regulations, C.R.C.1978, c. 2

Aircraft Marking and Registration Regulations, SOR/90-591

**Sector:** Transportation

**Sub-Sector:** Water Transportation

**Industry Classification:** SIC 4129 Other Heavy Construction (limited to dredging)

SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4552 Harbour and Port Operation Industries (limited to berthing, bunkering and other vessel operations in a port)

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water Transport, (not including landside aspects of port activities)

Type of Reservation: National Treatment (Articles 1102, 1202)

Most-Favored-Nation Treatment (Articles 1103, 1203)

Local Presence (Article 1205)

Performance Requirements (Article 1106)

Senior Management and Boards of Directors (Article 1107)

Description: Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure relating to investment in or provision of maritime cabotage services, including:

(a) the transportation of goods or passengers by vessel between points in the territory of Canada and in its Exclusive Economic Zone;

(b) with respect to waters above the continental shelf, the transportation of goods or passengers in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf; and

(c) the engaging by vessel in any maritime activity of a commercial nature in the territory of Canada and in its Exclusive Economic Zone and, with respect to waters above the continental shelf, in such other maritime activities of a commercial nature in relation to the exploration, exploitation or transportation of mineral or non-living natural resources of the continental shelf.

This reservation relates to, among other things, local presence requirements for service providers entitled to participate in these activities, criteria for the issuance of a temporary cabotage license to foreign vessels and limits on the number of cabotage licenses issued to foreign vessels.

Existing Measures: Coasting Trade Act, S.C.1992, c. 31

Canada Shipping Act, R.S.C.1985, c. S-9

Customs Act, R.S.C.1985, c. 1 (2nd Supp.)

Customs and Excise Offshore Application Act, R.S.C.1985, c. C-53

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4551 Marine Cargo Handling Industry

SIC 4552 Harbour and Port Operation Industries

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

**SIC 4559 Other Service Industries Incidental to Water Transport**

Type of Reservation: National Treatment (Articles 1102, 1202)

Most-Favored-Nation Treatment (Articles 1103, 1203)

Local Presence (Article 1205)

Performance Requirements (Article 1106)

Senior Management and Boards of Directors (Article 1107)

Description: Cross-Border Services and Investment

Canada reserves the right to adopt or maintain any measure denying service providers or investors of the United States, or their investments, the benefits accorded service providers or investors of Mexico or any other country, or their investments, in sectors or activities equivalent to those subject to Schedule of the United States, Annex II, page II-U-9.

Existing Measures:

Sector: Transportation

Sub-Sector: Water Transportation

Industry Classification: SIC 4541 Freight and Passenger Water Transport Industry

SIC 4542 Ferry Industry

SIC 4543 Marine Towing Industry

SIC 4549 Other Water Transport Industries

SIC 4551 Marine Cargo Handling Industry

SIC 4552 Harbour and Port Operation Industries

SIC 4553 Marine Salvage Industry

SIC 4554 Piloting Service, Water Transport Industry

SIC 4559 Other Service Industries Incidental to Water Transport

Type of Reservation: Most-Favored-Nation Treatment (Article 1203)

Description: Cross-Border Services

Canada reserves the right to adopt or maintain any measure relating to the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in such areas as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.

Existing Measures: United States Wreckers Act, R.S.C.1985, c. U-3

Various agreements and arrangements, including:

- (a) Memorandum of Arrangements on Great Lakes Pilotage;
- (b) Canada - United States Joint Marine Pollution Contingency Plan;
- (c) Agreement with the United States on Loran "C" Service on the East and West Coasts; and
- (d) Denmark - Canada Joint Marine Pollution Circumpolar Agreement.